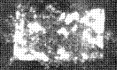

LAWS
OF
CUBA, PUERTO RICO
AND THE
PHILIPPINES

CIVIL CODE
COMMERCIAL CODE
CONSTITUTION
MUNICIPAL
PROVINCIAL
CIVIL ADMINISTRATION
ELECTORAL

VOL. I.

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LAWS

OF

CUBA, PUERTO RICO, AND THE PHILIPPINES.

WAR DEPARTMENT,
DIVISION OF CUSTOMS AND INSULAR AFFAIRS,
1899.

VOLUME I.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1899.

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TRANSLATION.

LAWS

RELATING TO

THE CIVIL ADMINISTRATION AND GOVERNMENT

OF THE

ISLAND OF PORTO RICO.

DIVISION OF CUSTOMS AND INSULAR AFFAIRS,
WAR DEPARTMENT.
August, 1899.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1899.

COLONIAL DEPARTMENT.

LAW.

Don Alfonso XIII, by the grace of God and the constitution, King of Spain, and in his name and during his minority the Queen Regent of the Realm:

Know ye, all who may see these presents and understand them, that the Cortes have decreed and we have sanctioned the following:

ARTICLE 1. The régime of the government and the civil administration of the island of Cuba shall be subject to the following bases:

Basis 1.—The municipal and the provincial laws in force in the island shall be modified in so far as necessary for the following ends:

Questions relating to the establishment of municipalities, addition, separation, and survey of municipal districts, shall be decided by the council of administration after a report from the respective provincial deputation.

The provincial law shall also be modified in all that which, according to these bases, is attributed to the competency of the council of administration.

The questions relating to the constitution of municipal councils, incidents of elections, qualification of electors, and other similar ones, shall be decided by the provincial deputation.

The councilors elected as such by municipal councils shall be mayors until the Governor-General considers it proper to appoint another member of the corporation. Mayors shall exercise, besides the functions proper to the administration as executors of the resolutions of the municipal councils, the representation and delegation of the government.

In all cases of administrative suspension of municipal resolutions the matter shall immediately pass to the jurisdiction of the ordinary court if the suspension was ordered by reason of delinquency, or shall pass to the civil governors after a report from the provincial deputation if the reason for the suspension should be that matters positively foreign to the municipal competency were resolved upon, or on account of infraction of laws.

Civil governors may suspend resolutions of municipal corporations and warn, reprimand, fine or suspend their members when they exceed the limits of the municipal competency.

For the administrative removal of mayors and councilors in the cases determined by the law the Governor-General must first necessarily hear the council of administration.

Every member of a municipal corporation who may have issued a ruling or voted for a resolution injurious to the rights of private parties shall be liable for indemnification or restitution to the persons damaged, before the courts which, according to the cases, are of competent jurisdiction, until said liability is extinguished in accordance with the ordinary rules of law.

In defined questions, such as are of the exclusive municipal competency, each municipal council shall enjoy all the liberty of action compatible with obedience to the general laws and with respect of the rights of private parties.

In order that municipal councils and boards of associates may designate the ways and means preferred in each town to cover the services and obligations of the municipality, they shall be granted all the latitude of powers which may be compatible with the tax system of the state.

Provincial deputations may revise the resolutions of the municipal corporations relating to the drawing up or alteration of their budgets without diminishing the discretional powers of the former, taking care that no expenditure is authorized which exceeds the net revenues, and that above all other necessities the debits or arrears which may be carried over from one year to another be liquidated, as well as the obligations which may have been declared by a final sentence of the courts of competent jurisdiction.

The Governor-General and the governors shall only have in these questions the intervention necessary to insure the observance of the laws and the compatibility of the municipal revenues with the receipts of the State.

The annual accounts of mayors, including the ordinary and extraordinary receipts and expenditures, shall be published in the localities, revised and audited in view of the complaints by the provincial deputations, and approved by the civil governors if they do not exceed 100,000 pesetas, and if they exceed said sum, by the council of administration. The deputations and the councils shall declare, in a proper case, the administrative liability, reserving that which comes under the jurisdiction of the ordinary courts.

The resolutions of provincial deputations may be appealed from to the council of administration.

Basis 2.—The council of administration shall be organized in the following manner:

The regular or temporary Governor-General shall be its president.

The government shall appoint 15 councilors by royal decree. Said council shall have a secretary's office, with the personnel requisite for the transaction of business.

The office of member of the council shall be honorary and gratuitous for all the members.

In order to be appointed councilor it is necessary, besides having resided four years in the island, to possess any of the following qualifications:

To be or to have been the president of a chamber of commerce, of the Economic Society of Friends of the Country, or of the Planters' Association.

To be or to have been rector of the university or dean of the bar of the capital of a province for a period of two years.

To have been for the four preceding years among the 50 highest taxpayers of the island, paying the land tax or the professional, industrial, or commercial tax.

To have filled the office of senator of the Kingdom or deputy to the Cortes in two or more legislatures.

To have been two or more times president of provincial deputations of the island; to have been, for two or more periods of two years, a member of the provincial commission, or a provincial deputy for eight years.

To have been, for two or more periods of two years, the mayor of a capital of a province.

To have been, for two or more years, a councilor of administration until the promulgation of this law.

When it deems it proper the council may order to appear before it, through the Governor-General, in order to hear them, the chiefs of the administrative services, who do not thereby acquire the right to vote.

The council shall be composed, moreover, of 15 councilors elected by the same census as the provincial deputation.

These offices shall last four years, and shall be renewed every two, the election being held once in the provinces of Havana, Pinar del Rio, and Puerto Principe, and another time in those of Matanzas, Santa Clara, and Santiago de Cuba.

Havana shall elect four, Santiago three, and the other provinces two each.

After all the councilors have been once elected, when this law goes into operation, or in case of a total dismissal, the first renewal shall take place after two years, those of the first group of provinces retiring from office.

In the ordinary cases the elections shall take place at the same time as those for provincial deputies and in the same ceremony.

The council shall examine the certificates and shall decide with regard to the legal qualifications of the persons elect, and of those of royal appointment, and shall decide all the questions relating to its own constitution, in accordance with the laws.

At the first session of each year it shall appoint two vice-presidents and two secretaries from among all the councilors. The Governor-General may delegate to the former the ordinary dispatch of business.

Basis 3.—The council of administration shall decide all that it may deem proper for the government in the entire island, of public works; telegraph, postal, land, and marine communications; agriculture, industry, and commerce; immigration and colonization; public instruction; charitable institutions and health, without prejudice to the high inspection and to the powers inherent in the sovereignty which the laws reserve to the government of the nation.

It shall draw up and approve every year the budget, with sufficient revenues to cover said services. It shall exercise the functions which the provincial and municipal laws intrust to it, as well as all those attributed to the same by special laws. It shall audit, and in a proper case approve, the accounts of its budget, which shall be rendered every year by the general direction of the local administration, declaring the administrative liabilities which may arise.

The revenues of the local budget shall consist:

First. Of the product of the property and revenues which belong to the State or to the establishments and institutions, the financial gov ernment of which is under the jurisdiction of the council.

Second. Of the surtaxes which the council may resolve upon, within the limits authorized by the laws, on the taxes and imposts of the State.

It is incumbent upon the Governor-General, as the superior chief of the authorities of the island, to enforce all the resolutions of the council.

For the purpose, as the delegate of the former, the general direction of the local administration shall have under its charge the services paid for by the local budget, and the accounting relating to the same, and shall be responsible for the nonobservance of the laws and legitimate resolutions of the council of administration.

Whenever the Governor-General considers any resolution of the council contrary to the laws or to the general interests of the nation he shall suspend their execution and shall adopt by himself, provisionally, the rulings which may be required by the public needs which may remain unattended to on account of the suspension, immediately submitting the matter to the colonial department.

If any resolution of the council injures unduly the rights of private parties, the persons who contributed to the adoption of the same with their votes shall be liable for indemnification or restitution to the person prejudiced before the courts of competent jurisdiction.

The Governor-General, after hearing the board of authorities, may suspend the council, or may, without that requisite, decree the suspension of its members, provided a sufficient number to deliberate remains:

First. When the council or any of its members exceeds the limit of his legitimate powers to the injury of the administrative or judicial authority, or with danger of disturbance of public order.

Second. By reason of delinquency.

In the first case, he shall immediately inform the government, in order that the latter may raise the suspension or decree the removal by means of a resolution adopted by the council of secretaries within the period of two months, after the expiration of which, without either ruling having been rendered, the suspension shall be raised as of course.

In the second case, the court of competent jurisdiction shall immediately take cognizance thereof, which shall be the audiencia of Havana in banc, and what the same may decide on the suspension shall be final.

With relation to the other liabilities, the persons shall have a right of appeal in cassation.

The council shall be heard:

First. On the general budgets of receipts and expenditures, the plans of which, drawn up by the intendants, shall be submitted every year, within the month of March or before, to the colonial department, with the modifications suggested by the council.

Although the Government may change the plan in order to submit it to the Cortes for the purpose of providing for the services and general obligations of the state, it shall always attach thereto, as a report, the one drawn up by the council of administration.

Second. On the general accounts which the intendance of the treasury shall render without fail every year, within the half year following each fiscal period, including the revenues and expenditures liquidated and incurred in the administration of the general budget of the island.

Third. On subjects relating to the patronate of the Indies.

Fourth. On the resolutions of the civil governors which are appealed to the Governor-General.

Fifth. On the removal or discharge of mayors or aldermen.

Sixth. On all other questions of a general character determined by the laws.

The Governor-General may also request of the council all the data he may deem fit.

The council shall periodically hold ordinary sessions and the extraordinary ones called by the Governor-General.

Basis 4.—The Governor-General shall be the representative of the Government of the nation in the island of Cuba. He shall exercise as the viceroyal patron the powers inherent in the patronate of the Indies. He shall have the supreme command of all the armed forces on land and sea in the island. He shall be the delegate of the departments of the colonies, state, war, and navy, and all other authorities of the island shall be subordinated to him. Their appointment or removal shall emanate from the president of the council of secretaries in concurrence with the latter.

Besides the other functions which are incumbent upon him by provisions of the laws or by special delegation of the Government, he shall have the following powers:

To publish, execute, and enforce in the island the laws, decrees,

treaties, international conventions, and other provisions which emanated from the legislative power.

To publish, fulfill, and enforce the decrees, royal orders, and other provisions emanating from the executive power, and which are communicated to him by the departments of which he is the delegate.

When, in his judgment, the resolutions of the Government of Her Majesty might cause damage to the general interests of the nation, or to the special interests of the island, he shall suspend their publication and fulfillment, giving a report thereof, and of the reasons for his resolution, by the speediest means of communication to the respective department.

To supervise and inspect all the public services.

To communicate directly on matters of foreign policy with the representative diplomatic agents and consuls of Spain in America.

To suspend the execution of a death sentence when the gravity of the circumstances requires it and the urgency of the same prevents his soliciting and obtaining a pardon from Her Majesty, hearing the opinion of the board of authorities.

To suspend, after hearing the same board and under its responsibility, when extraordinary circumstances prevent his communicating with the government prior thereto, the guarantees mentioned in articles 4, 5, 6, and 9, and paragraphs 1, 2, and 3 of article 13 of the constitution of the State, and to apply the laws of public order, giving immediately an account thereof, stating the reasons for his action to the government.

As the superior chief of the civil administration in the island the Governor-General shall also:

Maintain the integrity of the administrative jurisdiction in accordance with the provisions in force regarding the competency of jurisdictions and powers.

Issue the necessary general provisions for the fulfillment of the laws and regulations, notifying the colonial department thereof.

When the government has issued regulations or orders for the proper observance of the laws, the Governor-General shall strictly follow the orders of the government.

Designate the penal establishments wherein the sentences are to be served, order the admission therein of criminals, and name the place of confinement when the courts impose this penalty.

Suspend the officials of the administration whose appointment appertains to the government, notifying the same with the reasons therefor, and temporarily fill the vacancies in accordance with the provisions which obtain.

Maintain communication of all the authorities of the island with the departments of which he is the delegate.

The board of authorities shall be composed of the Reverend Bishop of Havana or the Reverend Bishop of Santiago de Cuba, if he be present; the general commander of the navy; the lieutenant-general;

the presiding judge and the *fiscal* of the audiencia of Havana; the intendant of the treasury, and the director of the local administration.

The resolutions of this board, which shall be entered in duplicate, one copy of the minutes of the same being forwarded to the colonial department, shall not prevent the Governor-General from deciding, under his own liability, in all cases, what he may deem more convenient.

The Governor-General can not turn over his office nor absent himself from the island without an express order from the Government, and he shall be replaced in cases of vacancy, absence, or incapacity by the regular Lieutenant-General, and, in default of the latter, by the general commander of the navy, until the Government designates another person to hold the office *ad interim*.

The criminal chamber of the supreme court shall take cognizance in only instance of the liabilities defined in the penal code which are imputed to the Governor-General.

The council of secretaries shall take cognizance of the administrative liabilities he may incur.

The Governor-General can not modify nor annul his own rulings when they have been confirmed by the Government, or when they are declaratory of rights or serve as a basis for a judicial sentence or administrative litigation, or when they treat of his own competency.

Basis 5.—The civil and financial administration of the island under the superior dependency of the Governor-General is hereby organized in accordance with the following rules:

The Governor-General, with his secretary's office, which shall be in charge of a chief of administration, shall directly dispatch questions of policy, patronate of the Indies, jurisdictional conflicts, public order, security, matters relating to foreigners, prisons, penitentiaries, statistics, personnel, communications between all the authorities of the island and the government, and any other business which is not assigned to a different jurisdiction.

The general intendance of the treasury, which shall be in charge of a superior chief of administration, shall be intrusted with all financial matters, the accounting, supervision, and rendering of the accounts of the budget of the State in the island.

The administrative sections of the provinces shall be under its direct orders, with the exception of the powers of inspection, which the Governor-General may delegate in certain cases to the civil governors.

The general direction of the local administration filled by a superior chief of administration shall be entrusted with the services which are paid by the budget drawn up by the council of administration; to keep the accounting, render and audit the annual accounts of the same budget referring to municipal matters, and to fulfill all the resolutions of said council of administration.

The schedules of the offices and the procedure for the dispatch of business shall be adjusted so as to secure the greatest simplicity in the proceedings and the liability of the officials.

The laws shall determine the cases in which the resolution of the chief, the superior authority of the island, under whose jurisdiction is each matter, according to this basis, shall cause a stay of proceedings in order to leave a way open in a proper case for litigative administrative proceedings.

However, at all times an extraordinary appeal in complaint to the Governor-General may be taken in regard to the matters in which the intendance and the direction of administration are involved, and also to the colonial department with regard to any other question of the administration or government of the island; but the complaint shall not stay the administrative proceedings, nor the legal term, nor the course of the administrative-litigative appeal.

The matter decided by either procedure can not be changed, in the terms determined by the special laws governing the matter.

The Governor-General and the colonial secretary, exercising powers of high inspection, either on their own initiative or by virtue of a complaint, shall take care not to interrupt the ordinary course of business, while they do not require to make any ruling to remedy or prevent irreparable damages before the definite resolution of the competent authority.

ART. 2. The régime of the government and the civil administration of the island of Porto Rico shall be in accordance with the following bases:

Basis 1.—The municipal law in force in the island is hereby modified in so far as necessary for the following purposes:

The questions relating to the organization of the municipalities or of the municipal corporations (addition, survey of districts, incidents of elections, qualifications of officers-elect, and other similar ones) shall be decided without further appeal by the provincial deputation.

The councilors elected by the municipal councils shall be the mayors until the Governor-General sees fit to appoint another member of the corporation. Mayors shall exercise, besides the regular functions of the administration as executors of the resolutions of municipal councils, the representation and delegation of the government.

In all cases of administrative suspension of municipal resolutions the question shall immediately pass for action of the ordinary court, if the suspension was ordered by reason of delinquency, or it shall pass to the provincial deputation in order that it may confirm or annul the suspension, if the reason for the latter was that the resolution referred to questions positively foreign to the municipal competency or on account of infraction of laws.

The delegates of the General Government may suspend the resolutions of the municipal corporations and warn, reprimand, fine, or suspend its members when they exceed the limits of the municipal competency.

For the administrative removal of mayors and councilors in the cases

determined by the law, the Governor-General must first necessarily hear the council of administration.

Every member of a municipal administration who may have issued a ruling or voted for a resolution injurious to the rights of private parties, shall be liable for indemnification or restitution to the persons injured before the courts which, according to the cases, are of competent jurisdiction, until said liability is extinguished, in accordance with the ordinary rules of law.

In defined questions, such as are of their exclusive competency, each municipal council shall enjoy all the liberty of action compatible with obedience to the general laws and with the respect of rights of private parties.

In order that municipal councils and boards of associates may designate the ways and means preferred in each town to cover the services and obligations of a municipality, they shall be granted all the latitude of powers which may be compatible with the tax system of the State.

The provincial deputation may revise the resolutions of the municipal corporations relating to the drawing up or alteration of their budgets, without diminishing the discretional power of the former, taking care that no expenditure is authorized which exceeds the cash revenues, and that above all other necessities, the debits or arrears which may be carried over from one year to another be liquidated as well as the obligations which may have been declared by a final sentence of the courts of competent jurisdiction.

The Governor-General and his delegates shall only have in these questions the intervention necessary to insure the observance of the laws and the compatibility of the municipal revenues with the receipts of the State.

The annual accounts of mayors, including the ordinary and extraordinary receipts and expenditures, shall be published in the locality, revised and audited in view of the complaints, by the delegates hearing the persons responsible with regard to the objections, and after having been definitely approved or disapproved by the provincial deputation, which shall declare in a proper case without further appeal the administrative liabilities, reserving those which come under the jurisdiction of the ordinary courts.

Article 118 of the municipal law of Porto Rico in force at the present time is hereby modified so that the appointment of its secretaries is incumbent upon the municipal councils, after competition.

Basis 2.—The provincial law in force in the island of Porto Rico shall be amended for the following purposes:

For the purposes of articles 82 and 84, in accordance with article 89 of the constitution, the entire island shall continue to form a single province, divided into two regions.

The provincial deputation of the island shall exercise all its functions in full, shall consist of twelve deputies, six from each region, whose terms shall last four years, and it shall be renewed by half every two

years, the election being held once in the region of San Juan and the other time in that of Ponce. After all the deputies have been once elected at the time of the establishment of this law, or in the case of an entire removal, the first renewal shall take place at the end of two years, those of the first region retiring from office.

The deputation shall elect its president and shall examine and approve, in a proper case, the certificates and the legal qualifications of the persons elect, and shall decide all the questions relating to its own organization, in accordance with the laws. The appeals which may be instituted against these decisions of the deputation shall be of the exclusive competency of the territorial audiencia of the island.

The Governor-General, after hearing the board of authorities, may suspend the deputation, or, without that requisite, he may order, by himself, the suspension of its members, provided there remains a sufficient number of the same to deliberate.

First. When the deputation or any of its members exceeds the limit of his legitimate powers, to the injury of the administrative or judicial authority, or with danger of disturbance of public order.

Second. By reason of delinquency.

In the first case, he shall immediately inform the Government in order that the latter may raise the suspension or decree the removal by means of a resolution adopted by the council of secretaries within the period of two months, counted from the day on which the first direct mail leaves for the Peninsula, at the expiration of which, without either ruling having been rendered, the suspension shall be raised as of course. In the second case, the court of competent jurisdiction shall immediately take cognizance thereof, and what it may decide shall be final, with regard to the suspension as well as to the definite liabilities.

The provincial deputation shall order, in accordance with the laws and regulations, whatever it may consider convenient for the government in the entire island of the public works, telegraphic, postal, land, and maritime communications; agriculture, industry, and commerce; immigration and colonization; public instruction; charitable institutions and health, without prejudice to the high inspection and to the powers inherent in the sovereignty which the laws reserve to the government of the nation. It shall draw up and approve, every year, the budgets with sufficient revenues to endow said services, execute the duties which the municipal law may assign to it, and any other ones which other special laws may intrust to it. It shall audit and approve, in a proper case, the accounts of the provincial budget, which shall be rendered every year by the section of local administration, declaring the administrative liabilities which may result.

The revenues of the budget shall consist, first, of the product of the property and rents which belong to the province or to the establishments and institutions the government and direction of which is incumbent upon the provincial deputation; second, of the surtaxes

which the laws authorize and the deputation orders on the taxes and imposts of the State the collection of which is entrusted to the general intendance of the treasury; third, of the portion which the deputation may assign to the municipalities, always preserving among the latter the proportion of the entity of the respective budgets.

It is incumbent upon the Governor-General, as the superior chief of the authorities of the island, to execute all the resolutions of the deputation. For this purpose the section of local administration of the general government, as his delegate, shall have in its charge the services endowed by the provincial budget and the accounting system relating to the same, and shall be liable for the nonobservance of the laws and legitimate resolutions of the deputation.

When the Governor-General considers any resolution of the provincial deputation contrary to the laws or to to the general interests of the nation, he shall suspend its execution, and shall himself temporarily adopt the decisions required by the public needs which may have remained unattended to by reason of the suspension; and after a report from the council of administration shall submit the question to the colonial department.

If any decision of the provincial deputation injures rights of private parties, those who contributed with their vote to the adoption of the same shall be liable for indemnification or restitution to the person prejudiced, before the courts of competent jurisdiction.

There shall be in the regions of San Juan and Ponce delegates of the Governor-General with the categories, qualifications, salaries, and powers convenient to facilitate the transaction of administrative business and the administrative action of the Governor-General.

Basis 3.—The council of administration of the island of Porto Rico shall be organized and shall act in the manner hereinafter determined:

The following shall be the president and ex officio members:

The Governor-General;

The reverend bishop of Porto Rico;

The lieutenant-general;

The chief commander of the navy;

The presiding judge and the *fiscal* of the territorial audiencia;

The lieutenant-colonel of the corps of volunteers of the capital;

The provincial deputies of the region, in which the ordinary election for the biennial renewal is nearest at hand.

The Government shall appoint by royal decree six more councilors, two of whom shall have legal qualifications, the category and the salary of chiefs of administration of the first class, and whose duty it shall be to submit the necessary propositions in order to prepare the deliberations of the council.

The latter shall have a secretary's office, with the requisite personnel for the transaction of business.

With the exception of the two proponent councilors, the office of

member of the council shall be honorary and gratuitous for all the members.

It shall be an indispensable requisite to discharge the office of proponent in the council of administration to have served one year in the island as chief of administration.

In order to be appointed a councilor, with the exception of the two proponents, any of the following qualifications are required:

To be or to have been the president of a chamber of commerce, of the Economic Society of the Friends of the Country, or of the Agriculturists' Association.

To be or to have been the director of the Institute of San Juan or the dean of the bar of San Juan de Porto Rico for a period of two years.

To have appeared during the four previous years among the fifty highest taxpayers of the island, by reason of the land tax, or among the fifty highest taxpayers by reason of the professional, industrial, or commercial tax.

To have been a senator or deputy to the Cortes in two or more legislatures.

To have been elected two or more times president of the deputation, or to have been mayor of San Juan de Porto Rico for two years.

The council, whenever it deems it proper, may call to appear before them, through the Governor-General, the chiefs of the administrative services in order to hear them, who shall not thereby acquire any right to vote.

The duties of the council shall be purely consultative. It shall always deliberate with full attendance, without prejudice to the commissions it may resolve to confer on its members, for the elucidation of the matters it is to report on.

It must be heard—

First. On the general budgets of receipts and revenues, the plans of which, drawn up by the intendance, shall be forwarded every year, within the month of March or before, to the colonial department, with the modifications made by the council. Notwithstanding that the government changes the plan in order to present it to the Cortes and to provide for the services and general obligations of the State, it shall always attach thereto, as a report, the one drawn up by the council.

Second. On the general accounts, which the intendance of the treasury must render without fail every year, within the six months following each fiscal period, including all the receipts and expenditures liquidated and incurred in the administration of the general budget of the island.

Third. On matters relating to the patronate of the Indies.

Fourth. On the resolutions of the provincial deputation which give rise to the intervention of the Government, in accordance with basis 2.

Fifth. On the petitions of legislative reforms emanating from the deputation, before being submitted to the government..

Sixth. On the removal and discharge of mayors or aldermen.

Seventh. On the other matters of an administrative character determined by the laws.

The Governor-General may, furthermore, request any other data of the council he may deem fit.

Basis 4.—The Governor-General shall be the representative of the government of the nation in the island of Porto Rico. He shall exercise, as the viceroyal patron, the faculties inherent in the Patronate of the Indies. He shall have the supreme command of all the armed forces on land and on sea existing in the island. He shall be the delegate of the colonial state, war, and navy departments, and all other authorities of the island shall be subordinated to his. His appointment or removal shall emanate from the president of the council of secretaries, with the concurrence of the same, on the recommendation of the colonial secretary.

Besides the other duties which are entrusted to him by the law or by special delegation of the government, he shall have the following powers:

To publish, execute, and enforce in the island the laws, decrees, treaties, international conventions, and other provisions emanating from the legislative power. To publish, fulfill, and enforce the decrees, royal orders, and other provisions emanating from the executive power, and which may be communicated to him by the departments of which he is the delegate. When in his judgment the resolutions of the government of Her Majesty might cause damage to the general interests of the nation or to the special ones of the island, he shall suspend their publication and fulfillment, making a report thereof, as well as of the reasons for his resolution, by the speediest means of communication to the proper department.

To supervise and inspect all the public services.

To communicate directly regarding matters of foreign policy with the representatives, diplomatic agents, and consuls of Spain in America.

To suspend the execution of a death sentence when the gravity of the circumstances require it and the urgency of the case does not permit him to solicit and obtain the pardon of Her Majesty, hearing the opinion of the board of authorities.

To suspend, hearing the same board, and under his liability, when extraordinary circumstances prevent him from communicating previously with the government, the guarantees mentioned in articles 1, 5, 6, and 9, and in the first, second, and third paragraphs of article 13 of the constitution of the State, and apply the legislation relating to public order.

It also behooves the Governor-General, as the superior chief of the civil administration of the island, to maintain the integrity of the administrative jurisdiction in accordance with the provisions governing subjects relating to competencies of jurisdiction and powers.

To issue the general provisions necessary for the fulfillment of the laws and regulations, reporting the same to the colonial department. When the government has issued regulations or orders for the due compliance with the laws, the Governor-General shall strictly observe the prescriptions of the same.

To designate the penal establishments in which sentences are to be served, order the admittance into the same of criminals, and designate the place of confinement when the courts impose this sentence.

To suspend the officials of the administration whose appointment belongs to the Government, giving the latter a detailed report, and temporarily fill vacancies in accordance with the provisions in force.

To maintain with all the departments of which he is the delegate the communication of all the authorities of the island.

The following shall compose the board of authorities:

The Reverend Bishop of San Juan de Porto Rico;

The lieutenant-general;

The chief commander of the navy;

The presiding judge and the *fiscal* of the audiencia of San Juan;

The intendant of the treasury;

And the chief of the section of local administration.

The resolutions of this board, which shall be recorded in duplicate, one copy of the minutes being forwarded to the colonial department, shall not prevent the Governor-General from deciding, under his liability in every case, what he may consider more convenient.

The Governor-General can not turn over his office nor absent himself from the island without an express order from the Government, and he shall be replaced in case of vacancy, absence, or incapacity by the Lieutenant-General, and in the absence of the latter by the chief commander of the Navy, until the government appoints another person temporarily to fill the office.

The criminal chamber of the supreme court shall take cognizance in only instance of the liabilities defined in the penal code which are imputed to the Governor-General. The council of secretaries shall take cognizance of the administrative liabilities which he may incur.

The Governor-General can not modify nor annul his rulings if they have been confirmed by the Government, if they were declaratory of rights, served as a basis for a judicial sentence or for administrative-litigative proceedings, or if they treated of his own competency.

Rulings which may be issued relating to matters of government, or in the exercise of discretional powers, and those of a general and regulatory character, may be annulled by the Government when the latter considers them contrary to the laws and inconvenient for the government and good administration of the island.

Basis 5.—The civil and financial administration of the island, under the superior dependency of the Governor-General, is hereby organized subject to the following rules:

The Governor-General, with his secretary's office, which shall be in

charge of a chief of administration, shall directly dispatch matters of policy, patronage of the Indies, jurisdictional conflicts, public order, security, matters relating to foreigners, prison, penitentiaries, statistics, personnel, communication between the authorities of the island and the government, and any others which are not assigned to a different jurisdiction.

The general intendance of the treasury, which shall be filled by a superior chief of administration, shall be entrusted with all financial matters, accounting, auditing, and rendering of accounts of the budget of the island. The administrative sections of the two regions shall be under its direct orders, excepting the powers of inspection, which the Governor-General may delegate in certain cases to the governors of the regions.

The section of local administration filled by a chief of administration shall be entrusted, with the services which are endowed by the provincial budget, with the keeping, rendering, and auditing of the annual accounts of the said budget, of municipal matters, and of the compliance with all the resolutions of the deputation.

The schedules of the offices and the proceedings for the transaction of business shall be so adjusted as to procure the greatest simplicity in the proceedings and the individual liability of the officials.

The laws shall determine the cases in which the resolution of the chief or superior authority of the island under whose jurisdiction is each question, according to this basis, shall cause a stay of proceedings in order to leave the way open, in a proper case, for administrative litigative proceedings.

However, an extraordinary appeal in complaint lies to the Governor-General at all times with regard to matters in which the intendance and the direction of administration are involved, and also to the colonial department with regard to any other question relating to the government or administration of the island; but the complaint shall not interrupt the administrative proceeding nor the legal term, nor the procedure of the administrative-litigative complaint. The matter adjudged in either manner shall be unchangeable in the terms prescribed by the special law governing the question.

The Governor-General and the colonial secretary, exercising the faculties of high inspection, either on their own initiative or by virtue of a complaint, shall take care not to interrupt the ordinary course of business, provided they are not required to make some ruling to remedy or prevent irreparable damages, before the definite resolution of the competent authority.

ART. 3. The electoral procedure and the division of the provinces into districts for provincial elections shall be modified by the government in the two islands in order to facilitate the representation of minorities in municipal councils, deputations, and in the council of administration of Cuba, and in order to apply to the elections of coun-

cilors, provincial deputies, and councilors of administration, in so far as the inclusion and exclusion of electors and rectification and annual formation of the electoral census is concerned, the provisions of the royal decree of December 27, 1892, on the reform of the electoral law for the election of deputies to the Cortes. The provisions of articles 14, 15, and 17, of the said royal decree, shall also be extended to all kinds of elections.

The tax quotas which the council of administration in Cuba and the provincial deputation in Porto Rico may impose by virtue of the new powers granted them by this law shall be computed as if they were imposed by the State for all electoral purposes.

ADDITIONAL ARTICLE.

The Government shall give an account to the Cortes of the use it may make of the powers granted it by this law.

TRANSITORY PROVISIONS.

First. The councilors of administration who are to be elected in the island of Cuba at the time of the promulgation of this law shall hold their positions until the first renewal of the provincial deputation, after two years have elapsed, counted from the date of the election.

Second. From the promulgation of this law, the rectification of the census for the elections of municipal councils and provincial deputations in both Antilles shall be proceeded with, as well as of councilors of administration in the island of Cuba, in accordance with the proceedings which are to be established according to article 3.

The colonial secretary shall issue, by means of a royal decree, the measures necessary and shall fix the periods for the different work of rectification in such terms that the latter may be completed before any kind of elections for the establishment of a council of administration of Cuba are proceeded with, or for the renewal of half of the actual popular corporations.

The renewal of the latter shall not for any reason nor in any case be deferred, with the exception of that of the municipal councils, which in the present year, and if the Government considers it necessary, may be deferred until the first 15 days of the month of June next.

In the following years the rectification shall be made in the terms established by the royal decree of December 27th, 1892, referred to in article 3.

Therefore,

We order all courts, justices, chiefs, governors, and other authorities, civil as well as military and ecclesiastical, of whatsoever class and dignity, to observe and to enforce, comply, and execute the present law in all its parts.

Given at the palace on March 15, 1895.

I, THE QUEEN REGENT.

BUENAVENTURA ABARZUZA,

Colonial Secretary.

THE COUNCIL OF ADMINISTRATION.

ROYAL DECREE.

In compliance with the provisions of basis 3 of Article II of the law of March 15, 1895, on the organization and duties of the council of administration of the island of Porto Rico; at the suggestion of the colonial secretary, in concurrence with the council of secretaries;

In the name of my august son, the King Don Alfonso XIII, and as Queen Regent of the Realm,

I decree the following:

CHAPTER I.

ORGANIZATION OF THE COUNCIL OF ADMINISTRATION OF PORTO RICO.

ARTICLE 1. The following constitute the council of administration:

1. The Governor-General, permanent or ad interim, president.

2. Six members, ex officio, who are:

The reverend bishop of Porto Rico;

The lieutenant-general;

The chief commander of the navy;

The presiding judge and the *fiscal* of the territorial audiencia.

The lieutenant-colonel of the corps of volunteers of the capital.

3. The six provincial deputies of the region wherein the ordinary election for the biennial renewal is nearest at hand.

4. Six councilors appointed by the Government by virtue of a royal decree. Two of these councilors shall have the legal qualifications, the category, and the salary of the chiefs of administration of the first class, and it shall be their duty to submit the necessary propositions in order to prepare the deliberations of the council.

ART. 2. One of the following qualifications is required to be appointed councilor, with the exception of the two proponents:

1. To be or to have been president of the Chamber of Commerce, of the Economic Society of Friends of the Country, or of the Agriculturists' Association.

2. To be or to have been director of the San Juan Institute or dean of the bar of San Juan de Porto Rico during two years.

3. To have appeared four years previously in the list of the fifty largest taxpayers of the island for taxation on real estate, or amongst

the fifty largest taxpayers for the exercise of their profession, industry, or trade.

4. To have been a senator or deputy to the Cortes in two or more legislatures.

5. To have been elected two or more times president of the deputation, or mayor of San Juan de Porto Rico for two years.

ART. 3. In order to fill the office of proponent in the council of administration it shall be an indispensable requisite to have served in the island as chief of administration during the period of one year.

ART. 4. With the exception of the two proponent councilors the office of member of the council shall be honorary and gratuitous for all the other members, and no daily fees or representation expenses shall be allowed them.

ART. 5. The council shall have a secretary's office, with the necessary personnel for the transaction of business.

CHAPTER II.

POWERS AND DUTIES OF THE COUNCIL OF ADMINISTRATION.

ART. 6. The council of administration shall be heard—

1. On the general budgets of receipts and expenses, the plans of which, drafted by the intendance, shall be presented each year, in the month of March or before, to the colonial department, with the modifications made by the council.

The report drafted by the council shall always accompany the plan, although the Government may have changed it in order to submit the same to the Cortes for the purpose of providing for the general services and obligations of the State.

2. On the general accounts which the intendance of the treasury shall render, without any excuse, each year within the six months following each financial term, including the receipts and expenses collected and paid into the administration of the general budget of the island.

3. On the matters of the patronate of the Indies.

4. On the resolutions of the provincial deputation which may cause the Governor-General to interfere by reason of his considering them contrary to the laws or the general interests of the nation.

5. On the petitions for legislative reforms emanating from the deputation before submitting them to the government.

6. On the removal or discharge of mayors, deputy mayors, or aldermen.

7. On other matters of an administrative character determined by the laws.

ART. 7. The council of administration shall, moreover, issue all the reports which the Governor-General may deem proper to request of the same.

ART. 8. The council may call, through the Governor-General, to hear them whenever it may deem it convenient, the chiefs of the administrative services, although they shall not on account of this be entitled to vote.

ART. 9. The functions of the council shall be merely consultative. It shall always deliberate in full, without prejudice to the commissions it may confer on its members for an elucidation of the matters on which it has to report.

ART. 10. The council of administration shall draft the regulations for its interior management and the organization of its secretary's office.

ART. 11. All other provisions in conflict with those of the present decree are hereby repealed.

Given at the Palace on December 31st, 1896.

MARIA CRISTINA.

TOMAS CASTELLANO Y VILLAROYA,

Colonial Secretary.

THE GOVERNOR-GENERAL.

ROYAL DECREE.

In compliance with the provisions of basis 4 of article II of the law of March 15, 1895, on the powers of the Governor-General of the island of Porto Rico, at the suggestion of the colonial secretary, in concurrence with the council of secretaries,

In the name of my august son, King Alfonso XIII, and as Queen Regent of the Realm,

I decree the following:

TITLE I.

THE GOVERNOR-GENERAL.

CHAPTER I.—*His appointment and removal.*

ARTICLE 1. There shall be a Governor-General in Porto Rico, who shall be the supreme authority of the island representative of the government of the nation in the same.

ART. 2. The appointment and removal of the Governor-General shall be decided by the council of secretaries, at the suggestion of the colonial secretary, and the president shall submit it to the approval of the Crown.

ART. 3. The Governor-General is under the direct orders of the colonial department, and is furthermore the delegate of said department and of those of state, war and navy.

ART. 4. After his appointment the Governor-General shall call for his instructions on the president of the council and the colonial secretary, to whom, after his retirement, he shall personally give an accounting of his administration. He shall do likewise with the other secretaries, whose delegate he is.

ART. 5. As soon as the Governor-General lands in any point of the island he shall be considered as having taken possession of the general government of the same without any further form or requisite.

ART. 6. The Governor-General can not surrender his office nor absent himself from the island without an express order of the government.

In case of vacancy, absence, or incapacity he shall be substituted by the lieutenant-general, and in default of the latter by the principal commander of the navy until the government designates another person to hold the office *ad interim*.

If he should only be absent from the capital of the island he shall continue performing his duties from the place where he may be, without prejudice to his authorizing the chiefs of the several bureaus to transact the business respectively intrusted to them, which are of a mere routine character, and of the decision of the general government. If said business is to be decided by the superior government it shall be transacted by the lieutenant-general.

ART. 7. The following shall be under the direct and immediate orders of the Governor-General:

The council of administration, subject to the provisions of law; the board of authorities; the general intendance of the treasury; the section of local administration, and the secretary's office of the same general government.

All the other authorities of the island shall be subordinate to him, and through him shall communicate with the corresponding departments in the necessary cases and in accordance with the provisions in force.

CHAPTER II.—*His powers and duties.*

ART. 8. The following are the powers of the Governor-General as a delegate of the Government:

1. To exercise, as vice-royal patron, the powers inherent in the patronate of the Indies.

2. To exercise the superior command of all military and naval forces in the island.

3. To issue all the orders for the preservation of public order, the maintenance of the integrity of the territory, the observance and execution of the laws, and the protection of persons and property.

4. To exercise the powers of high inspection in accordance with the provisions regulating it.

5. To exercise the powers (*) reserved to the colonial secretary concerning the administrative services of the island.

6. To exercise all the other powers which the government may delegate to him.

ART. 9. He shall, moreover, have the following powers by his own right:

1. To publish, circulate, enforce, and cause to be enforced in the island the laws and decrees, treaties, international conventions, and all the orders emanating from the legislative power.

2. To publish, fulfill, and cause to be observed the decrees, royal orders, and other provisions emanating from the executive power and communicated to him by the colonial department or by the departments of which he is the delegate.

When, in his opinion, the resolutions of Her Majesty's Government might injure the general interests of the nation or the special interests

* Has "not" been unintentionally omitted?

of the island, he shall suspend their publication and enforcement, giving an account thereof, and of the causes on which his resolution is based, by the most prompt means of communication, to the proper department, and always to the colonial department as well.

3. To supervise and inspect all the public services, reporting on the same to the proper departments.

The Governor-General may in special cases delegate his powers for inspection to the delegates of the regions.

4. To directly communicate on matters of exterior policy with the representatives, diplomatic agents, and consuls of Spain in America.

5. To suspend the execution of a death sentence when the gravity of the circumstances require it and the urgency of the same prevent his soliciting and obtaining a pardon from Her Majesty, after hearing the opinion of the board of authorities.

6. To suspend, after hearing the same board and under his responsibility, when extraordinary circumstances prevent his communicating with the Government prior thereto, the guarantees mentioned in articles 4, 5, 6, and 9 and paragraphs 1, 2, and 3 of article 13 of the constitution of the State, and to apply the laws of public order giving immediately an account thereof, stating the reasons for his action to the Government.

7. To decide on the extraordinary remedy of complaint which at all times may be presented to his authority regarding the matters of which the intendance of the treasury and the section of local administration take cognizance.

8. To call on the council of administration for all the information he may deem necessary.

9. To suspend the carrying into execution of the resolutions of the provincial deputation whenever he considers them contrary to the laws or the general interests of the nation, temporarily issuing of his own accord the orders demanded by the public needs which might remain unattended to by reason of the suspension, and submitting the matter to the colonial department, after a report from the council of administration.

10. To execute all the resolutions of the provincial deputation.

11. To suspend the deputation, after hearing the board of authorities, or ordering of his own accord and without that requisite the suspension of its members, as long as there remains a sufficient number of them to deliberate, immediately notifying the government or submitting the case to the proper courts, according as to whether the suspension is based on a governmental cause or by reason of a delinquency.

12. To preside over the council of administration.

13. To administratively remove the mayors and councilors in the cases prescribed by law, after a report of the council of administration.

ART. 10. As the superior chief of the civil administration in the island the Governor-General shall also:

1. Maintain the integrity of the administrative jurisdiction in accord-

ance with the provisions in force regarding the competencies of jurisdictions and powers.

2. Issue the necessary general provisions for the filfillment of the laws and regulations, notifying the colonial department thereof. When the Government has issued regulations or orders for the proper observance of the laws the Governor-General shall strictly follow the orders of the Government.

3. Designate the penal establishments wherein sentences are to be served, order the admission therein of criminals, and name the place of confinement when the courts impose this penalty.

4. Suspend the officials of the administration whose appointment appertains to the government, notifying the same, with the reasons therefor, and temporarily fill the vacancies in accordance with the provisions in force. Temporarily fill other vacancies.

5. Maintain communication of all the authorities of the island with the departments of which he is the delegate.

6. Suspend the execution of the resolutions issued by subordinate authorities when they may morally or materially jeopard public order or seriously compromise public interests, although said resolutions may have been within the jurisdiction of said authorities and should produce all their effects in ordinary circumstances, immediately stating the reasons to the corresponding departments for the proper decision.

7. Exercise all the powers conferred on him by the municipal and provincial laws.

8. Propose to the Government all that concerns the improvement of the moral and material interests of the island, without prejudice to the powers which the municipal and provincial laws grant the deputation and municipal boards.

9. Suspend the associations or corporations which may transgress.

10. Order his delegates in the regions to impose the fines on the officials and corporations incurring the same.

ART. 11. The Governor-General, with his secretary's office, shall directly transact the political business and the business of the patronate of the Indies, jurisdictional conflicts, public order, security, matters concerning foreigners, prisons, penitentiaries, statistics, personnel, communication between the authorities of the island and the Government, and any others not assigned to a different jurisdiction.

ART. 12. The Governor-General addresses and communicates directly with the secretaries, of whom he is the representative and delegate in the island.

ART. 13. The Governor-General can not modify or revoke his own rulings when they have been confirmed by the Government, whether they are declarations of rights or have served as a basis for a judicial or administrative litigative sentence, or treat of his own competency.

ART. 14. The rulings issued in matters of government, or in the exercise of discretional powers, or those of a general and regulative char-

acter, may be annulled by the government whenever it considers them contrary to the laws or inconvenient for the government and good administration of the island.

ART. 15. The criminal chamber of the supreme court shall take cognizance in single instance of the liabilities specified in the penal code which may be imputed to the Governor-General.

The council of ministers shall take cognizance of the administrative liabilities in which he may incur, except in so far as the laws in force prescribe regarding impeachment trials.

TITLE II.

THE BOARD OF AUTHORITIES.

First and last chapter.

ART. 16. The following compose the board of authorities under the chairmanship of the Governor-General or of his substitute in the island of Porto Rico:

The reverend bishop of San Juan de Porto Rico.

The lieutenant-general.

The chief commander of the navy.

The presiding judge and the *fiscal* of the audiencia of San Juan.

The intendant of the treasury and the chief of the section of local administration.

ART. 17. This board has a consulting character. Its resolutions shall be recorded in duplicate minutes, and a copy thereof shall be forwarded to the colonial department.

ART. 18. The Governor-General shall decide, under his own responsibility, in any case, what he may deem most convenient without regard to the resolutions of the board of authorities.

ART. 19. All the provisions in conflict with those of the present decree are hereby repealed.

Given at the Palace on December 31, 1896.

MARIA CRISTINA.

TOMAS CASTELLANO Y VILLAROYA,

Colonial Secretary.

THE CIVIL AND FINANCIAL ADMINISTRATION.

ROYAL DECREE.

In compliance with the provisions of basis 5 of Article II of the law of March 15, 1895, on the organization of the civil and financial administration in the island of Porto Rico, at the suggestion of the colonial secretary, in concurrence with the council of secretaries;

In the name of my august son, the King Don Alfonso XIII, and as Queen Regent of the Realm,

I decree the following:

ARTICLE 1. The civil administration of the island shall be in charge of the section of local administration, or of a similar bureau which may in the future replace it. The financial administration shall be in charge of the general intendance of the treasury.

ART. 2. The section of local administration shall be under the orders of the superior authority of the Governor-General. It shall at present be in charge of a chief of administration and it behooves the same to attend to—

(1) The services endowed by the provincial budget; (2) keep the accounts, render and examine the annual accounts of the same budget; (3) municipal matters and the fulfillment of all the resolutions of the deputation. It shall be responsible for the nonobservance of the laws and of the legitimate resolutions of the deputation.

ART. 3. The general intendance of the treasury shall depend upon the superior authority of the Governor-General. It shall be in charge of a superior chief of administration, and shall attend to the financial management of the accounting system, the auditing, the supervising, and rendering of the accounts of the budget of the State in the island. The financial administrative sections of the regions, and all the other bureaus of the treasury of the center and of the province, shall depend on the intendance of the treasury, no matter what their name may be, in the terms prescribed by the instructions in force or those which may be issued in the future, whether in regard to the services or to the organisms selected for their fulfillment, excepting the powers of inspection, which the Governor-General may delegate in special cases to the delegates of the regions.

ART. 4. It behooves the intendant:

1. To procure the most equitable distribution of the taxes and imposts.

2. Increase by all possible means the product of the state taxes and revenues, suggesting the modifications and improvements of which they may be susceptible.

3. To order the disbursements and to liquidate all the obligations and services of the state personally or through his delegates, either in the central administration of the island or in the provincial and local, with the exception of what appertains to the branches of war and navy, which have special disbursing officers.

4. To communicate to the proper persons the orders received from the colonial department or from the superior authorities of the island and to see that they are punctually complied with.

5. To endeavor:

First. To have forwarded to the direction of the treasury of the colonial department at the appointed periods periodical statements and information of accounts which the officials of the financial administration are obliged to render to the same.

Second. To have drawn up and forwarded in due time to the court of accounts of the kingdom, those which said officials are obliged to render, in accordance with the decree of September 12, 1870, with the other provisions in force, and with those which may be issued hereafter.

Third. To have drafted in due form the general accounts specified in article 170 of the instructions for accounting of October 4, 1870, within the six months following the dates of the periods included therein. These accounts shall be forwarded to the council of administration in order that within the period of two months it may report regarding the result obtained by the financial management in the aforesaid periods, and after they are returned to the general intendance of the treasury they may be sent by the first mail with the report and objections of said council to the court of accounts of the Kingdom.

6. All the other powers conferred on him by the laws and regulations.

The intendant shall communicate with the department through the Governor-General, and the secretary shall also communicate with the intendance through said superior authority.

ART. 5. The powers granted to the intendant shall always be subordinated to those of the high inspection appertaining to the Governor-General as the representative of the government of the island.

ART. 6. The intendant of the treasury shall annually draft the plans for the general budgets of receipts and expenditures, taking into account the resources and obligations appertaining to the State.

ART. 7. After the intendance has drawn up, during the month of January of each year, the plans for the budgets, it shall submit them through the Governor-General for examination to the council of administration.

The intendant or one of his representatives previously appointed shall necessarily be present at the sessions of the council of administration held for that purpose, not only for the purpose of assisting in

the deliberations, but also in order to give the necessary explanations and to elucidate any doubts which might arise in regard to said plans.

ART. 8. The resolutions issued by the general intendance of the treasury in case of appeal, whenever such is presented before the same in accordance with the laws and regulations, shall always cause a stay of proceedings whenever matters allowing litigative proceedings are in question.

Against the same a litigative administrative appeal may be instituted.

The resolutions of the intendance, from which the litigative administrative appeal does not lie, may be suspended by the Governor-General and amended or annulled by the colonial secretary.

The decision which the latter may render shall end the administrative proceedings.

ART. 9. Appeals by way of complaint may in every case be instituted against the decisions of the general intendance of the treasury.

ART. 10. The appeal instituted according to the cases, either for review or by way of complaint, shall be brought before the intendant within the period of fifteen days, counted from the day following that on which the sentence was pronounced.

ART. 11. The personnel to be assigned to the section of local administration and to the general intendance of the treasury, as well as the category and salaries of the officials, shall be determined in the proper schedules.

The colonial secretary shall issue the proper provisions in order that the transaction of business may be established in accordance with the desire of obtaining the greatest simplicity in all proceedings and the individual liability of the officials.

ART. 12. All provisions in conflict with those of the present decree are hereby repealed.

Given at the Palace on the 31st of December, 1896.

MARIA CRISTINA.

TOMÁS CASTELLANO Y VILLARROYA,
Colonial Secretary.

HIGH INSPECTION AND APPEALS BY WAY OF COMPLAINTS.

ROYAL DECREE.

In compliance with the provisions of basis 5 of Article II of the law of March 15, 1895, on the exercise of the powers of high inspection and on the appeal by way of complaint in the island of Porto Rico, at the suggestion of the colonial secretary, in concurrence with the council of secretaries,

In the name of my august son, The King Don Alfonso XIII, and as Queen Regent of the realm.

I decree the following:

CHAPTER I.—*Inspection of all the public services.*

ARTICLE 1. The high inspection of all the public services of local or provincial administration appertains to—

1. The Governor-General.
2. The colonial secretary.

ART. 2. The inspection referred to in the preceding article shall be respectively exercised by the Governor-General or by the colonial secretary.

1. On their own initiative.
3. By virtue of an appeal by way of complaint.

ART. 2. The colonial secretary enjoys prompt powers to exercise on his own initiative the high inspection which exclusively appertains to him over all the public services in the manner he may deem convenient for the improvement of the same, for the correction of the abuses which may be committed in their performance, and the strict observance of the laws, although the Governor-General may have taken cognizance of the matter as the representative of the Government or the delegate of the colonial secretary.

ART. 4. The Governor-General shall enjoy the same powers within his own sphere of action without prejudice to the powers appertaining to the colonial secretary.

ART. 5. The Governor-General and the colonial secretary, in the exercise of their powers of high inspection, either on their own initiative or by virtue of a complaint, shall see that the ordinary course of business is not interrupted as long as they do not require to adopt a ruling to remedy or prevent irreparable damage before the final decision of the competent authority.

CHAPTER II.—*Appeal in complaint.*

ART. 6. Any person may institute an extraordinary appeal in complaint before the decision in question may reach the point of a question tried either administratively or governmentally.

The appeal in complaint lies:

1. To the Governor-General of the island in reference to all the matters appertaining to the intendance and to the section of local administration.

2. To the colonial department in reference to the matters specified in the preceding paragraph or any other matter concerning the administration or the government of the island without any limitation whatsoever.

ART. 7. The institution of the appeal in complaint shall not interrupt the administrative proceedings, the legal period of time, nor the course of the proper claim.

ART. 8. The question tried by each procedure can not be changed from the manner prescribed by the special law governing it.

CHAPTER III.—*The litigative-administrative appeal.*

ART. 9. The laws shall specify the cases in which a decision of a chief, corporation, or superior authority of the island to whose jurisdiction each question appertains according to the law of March 15, 1895, shall cause a stay of proceedings, to permit, in a proper case, litigative-administrative proceedings to be brought.

ART. 10. Without prejudice to what in each case is provided for by special laws, it is generally understood that resolutions issued by the authority, corporation, chief, or Governor-General of the island, cause a stay of proceedings for the effects of the litigative-administrative appeal, whenever they possess the requisites established by law, and end the matter, not being susceptible of further remedy in administrative proceedings.

ART. 11. Notwithstanding the provisions of the preceding article, no ruling or decision from any authority or corporation of any kind whatsoever creating rights in detriment of the State or diminishing the faculities inherent in the sovereignty which the laws reserve or subsequently may ascribe to the government of the nation, shall cause a stay of proceedings nor be invested with the character or authority of a *res adjudicata.*

ART. 12. All provisions in conflict with those of the present decree are hereby repealed.

Given at the palace on the 31st of December, 1896.

MARIA CRISTINA.

TOMÁS CASTELLANO Y VILLARROYA,
Colonial Secretary.

INTERIOR DEPARTMENT.

ROYAL DECREE.

Considering the reasons stated to me by the Secretary of the Interior, in concurrence with the council of secretaries,

I decree the following:

ARTICLE 1. The contracts entered into by the provincial deputations or the municipal councils for all kinds of services, works, purchases, sales and leases, and in general all those which may cause an expenditure or receipt in the provincial or municipal funds, shall be awarded to the highest bidder at a public auction.

The contracts mentioned in article 36 are the only ones excepted.

ART. 2. The deputations and municipal councils shall draft the projects, the professional and financial documents of conditions, and the estimates of the works or services, or shall fix the price which is to serve as a basis for the auction, observing in each case, and in accordance with the nature of the contract, the prescriptions of laws or provisions in force.

ART. 3. The following must be stated in the document of conditions:

1. The rate or price which is to serve as a basis for the auction, and the form of the proposal showing the manner in which the bids are to be advanced in relation to the rate fixed.

2. The provisional guaranty which is to be deposited by the bidders in order to take part in the auction, and the final one which is to be paid by the successful bidder, taking into consideration the provisions of article 12.

3. The obligations contracted or the rights acquired by the successful bidder.

4. The obligations contracted or rights acquired by the interested corporation.

5. The fines which may be imposed on the successful bidder and the liabilities he may incur on account of noncompliance with the stipulations, determining the action which the contracting body shall exercise over the guaranties and the means by which the successful bidder shall be compelled to fulfill his obligations and to indemnify the injury he may occasion.

6. The cases in which the successful bidder may request an increase or reduction in the price or rescission of the contract, or the notice that the latter is made at the risk and venture of the successful bidder, and that through no cause whatsoever may he demand a change in the price or the rescission of the contract.

7. The information of the domicile of the interested corporation to the courts of competent jurisdiction in any question which may arise.

8. The obligation of the successful bidder to pay for the advertisements, instruments, and all kinds of expenses arising from the auction and execution of the contract.

ART. 4. When the contract binds the deputation or the municipal council to the payment of any sum, the auction can not be advertised if in the ordinary budget a sufficient credit is not included for the purpose, or unless the extraordinary budget which is necessary for this purpose has been previously drafted and approved.

If a municipal council should be the contracting party and the payments are to be made with funds from the ordinary budget during the current period of several budgets, the conditions determining the limits of time and amounts must be approved before the auction is advertised by the municipal board.

ART. 5. When the auction relates to contracts which need, in order to be valid, the approval of the provincial deputation, of the governor, or of the Government, the documents of conditions shall be previously approved by the corporation or authority who is to authorize the contract.

The corporations and provincial authorities must decide within a period of fifteen days, and the Government within thirty, counting from the one following the date of the transmission of the project, which shall be entered in the record of the proceedings of the auction. Should said periods respectively elapse without any decision having been rendered, the documents of conditions which have been forwarded shall be held as approved and the auction may be advertised, the contract which may be entered into being held as valid in so far as it is in accordance with the same.

In all cases specified in this article, the contracting corporations within the eight days following the execution of the contract with the successful bidder shall send a certified copy of the same to the corporation or authority, which expressly or tacitly may have approved the document of conditions, which if it does not find the former to conform with the latter, shall issue the proper decision and shall demand from the members of the contracting corporation who may be at fault the liability they may have incurred, without prejudice to the right of the successful bidder to demand from the same an indemnity for the damages which may be caused in case the contract is annulled.

ART. 6. Every auction shall be advertised at least thirty days in advance, by means of announcements which shall constantly be placed before the public during said period, in the places ordinarily designated by the deputations and municipal councils to post edicts and advertisements, taking care to have them renewed if it should be necessary.

These advertisements shall necessarily be published in every case in the official bulletin of the province, and also in the Gaceta de Madrid,

when the expenditure or the total receipts involved in the contract exceed 50,000 pesetas; they may also be published in newspapers not official, but of large circulation, whenever convenient in the opinion of the contracting corporation.

The latter shall see under its own liability that the proper advertisements are posted and published before the thirty days previous to the day fixed for the auction, and the compliance with this requisite shall be proved by means of a certification added to the record of proceedings of the auction or by attaching to the same a copy of the official newspapers.

In cases of urgency, or when the amount of the contract does not exceed 5,000 pesetas, the deputations and the municipal councils may shorten the limit of time mentioned in this article, but it shall never be under ten days.

ART. 7. The advertisement shall include the documents of conditions of the contract whenever the total amount of the latter exceeds 50,000 pesetas; if it does not exceed this amount and the expenses occasioned by the publication of these documents should not be in proportion to the importance of the contract, it shall be sufficient to state the place where they are to be seen, as well as the reports, plans, forms, budgets, and other objects or data, the knowledge of which may be necessary for a proper understanding of the conditions; but in every instance the object of the auction, place or places, and the day and hour on which it is to be held, the authority who is to preside the act, the rate of the auction, the form to which the proposals must conform or the manner in which the bids are to be made; the conditions and the provisional deposit required of the bidders shall always be mentioned, always stating the net amount of the deposit, the final bond to be given by the successful bidder, the duration of the contract, and the time or periods in which the payments are to be made or the service is to be rendered, or the work completed which is the object of the same.

ART. 8. The auctions for provincial contracts shall be held in the capital of the province under the chairmanship of the governor or of the deputy of the provincial committee whom he may appoint as his delegate, with the attendance of another deputy appointed by the deputation.

The auctions for municipal contracts shall be held in the capital of the district, under the chairmanship of the mayor or of the deputy mayor or councilor whom he may delegate, with the attendance of another councilor appointed by the municipal council.

The secretary of the corporation may be present to certify to the act when the amount of the contract does not exceed 15,000 pesetas; but should he not be able to attend in person, and in all cases when the amount of the contract exceeds said sum, the auction shall be held before a notary, unless there is not one in the town or those who may be in the same should become incapacitated after the auction has been announced.

ART. 9. Whenever the total of the receipts or expenditures arising from the contract exceeds 50,000 pesetas two simultaneous auctions shall be held, one in the place where the interested corporations reside and in the manner provided for by the preceding article, and the other in Madrid under the chairmanship of the official appointed by the secretary of the interior.

ART. 10. The documents of conditions and the original documents shall be always on view under the custody of the contracting corporation, and in the cases mentioned in the preceding article copies of the same, authenticated by the secretary of said corporation, shall be exhibited in the department of the interior, this being stated in the advertisements.

ART. 11. The following persons can not be contractors:

1. Those who, in accordance with the civil laws, lack the capacity to contract in their own name without the intervention of another person.

2. Those criminally indicted, if a sentence of imprisonment has been passed upon them.

3. Those who are bankrupts, or have suspended payments, or whose property is in the hands of a receiver.

4. Those who have been judicially notified on account of being debtors to the State or to any province or municipality as taxpayers.

5. Those administratively incapacitated to undertake public services or works on account of noncompliance with previous contracts.

6. Neither the councilors, the secretary, auditor, and employees of the contracting municipal council, nor the provincial deputies and the secretary, auditor, and treasurer of the respective province in contracts entered into by municipal councils; and the provincial deputies, the secretary, auditor, treasurer, and employees of the contracting deputation in the contracts entered into by deputations.

ART. 12. The bidders attending all kinds of auctions for provincial or municipal contracts shall previously make a deposit, as a provisional guaranty, of the amount stated in the advertisements, which shall be equal to 5 per cent of the amount or total value of the work or service which is the subject of the contract; and the successful bidder shall give the final guaranty which may have been designated, which shall not be less than 10 per cent nor more than 20 per cent of the same amount or total value of the work which is the subject of the contract.

No final guaranty shall be necessary in cash contracts of purchase or sale, or which may be sufficiently guaranteed by the conditions governing them.

All guaranties shall be given in cash or public bonds.

Notwithstanding the provisions of the preceding paragraph, the municipal councils of municipalities of less than 5,000 inhabitants, whenever contracts amounting to less than 30,000 pesetas and the duration of which does not exceed one year, may accept personal bondsmen for the final guaranty, or for the difference between the provisional

guaranty and the final one to be given by the successful bidder, requiring in all cases that the guarantor reside in the locality and prove that he has paid up to date the tax quota, the annual amount of which is not less than 3 per cent of the guaranteed sum, either by way of land tax or by way of industrial subsidy in the classes on whom this tax is levied by reason of keeping open a public establishment, and the councillors on whose suggestion a guarantor has been accepted, being liable when the guaranty can not be collected on account of the property of the former being pledged to other previous or preferred obligations.

ART. 13. Public bonds shall be accepted in temporary and final guaranties at the rate specified in the official quotation of the day on which the guarantee is given. The successful bidders may withdraw the excess or shall have to pay the difference whenever the price of the bonds deposited may suffer during the contract an increase or reduction exceeding 3 per cent relative to that of the day in which the guaranty was given. If they had to effect a payment for the difference and they should not do so within the ten days following that on which they are requested to do so, the contracting corporation may rescind the contract with the effects of article 23.

Whenever the guaranties have been given with public bonds the successful bidder shall be allowed to collect the interest earned by them.

Public bonds given as a guaranty may be replaced in whole or in part by cash or by other public bonds, their value being always estimated in the manner prescribed in the first paragraph of this article.

ART. 14. The provisional deposits made in order to take part in the bids shall be deposited in the treasuries of the contracting corporations or in the general treasury or its branches without regard to the place where the auction is to be held, but should there exist any doubt concerning the authenticity of the receipt, the final award of the auction shall not be made until such doubts have disappeared.

The final guaranties of the successful bidders shall be given in any of the manners specified, within the province of the contracting corporations. When the guaranties are given in public bonds and in the treasuries of the contracting corporation. a receipt of the same shall be enclosed.

ART. 15. The interested parties may attend any auction, personally, or represented by another person with special power for the purpose, declared sufficient, at the expense of the bidder, by a lawyer appointed by the contracting corporation.

ART. 16. The following rules shall be observed when auctions are held for contracts which have to bring revenue to the interested corporation, or an expenditure exceeding 50,000 pesetas:

1. The ceremony shall begin on the day, hour, and place mentioned in the advertisements, the committee organizing itself in the manner prescribed by article 8 and by article 9 in the proper case.

2. Immediately thereafter this article shall be read, as well as the advertisement of the auction and the documents of conditions, if they had not been published in the advertisement.

3. After reading these documents, the president shall declare the bidding opened for a period of half an hour, and shall notify the persons present that during the same they may demand any explanations they may deem necessary concerning the conditions of the auction, with the understanding that after said period and after the first bid is opened no further explanations shall be given.

4. During the said period of half an hour the bidders shall deliver to the president their sealed proposals, and shall personally rubricate the wrapper at the time of the delivery of the same, and the president shall receive them, placing the proper number on each document in the order of presentation, and shall leave them on the table exhibited to the public.

5. The documents shall be delivered to the president sealed, and inclosed therein shall be the proposals in accordance with the form, the receipt proving that the provisional guaranty has been given and the *cédula* of the bidder. When a bidder presents more than one bid, it shall be sufficient to inclose both these last documents in one of them.

6. After the bids have been delivered to the president they can not be withdrawn for any reason whatsoever.

7. Five minutes before the expiration of the half hour it shall be announced aloud by a constable or doorkeeper, by order of the president, that only this time is lacking for the period of admission to end, and at the expiration of the half hour the president shall declare the termination of the auctions.

8. Immediately thereafter the president shall open the first envelope presented and shall read aloud the bid contained therein, and shall open and read consecutively the others in the order of numeration given to them at the time of presentation.

9. At the very moment of the opening the president shall declare as rejected the bids which are not accompanied by the receipt of deposit and the *cédula* of the bidder, except in the case prescribed in rule 5, as well as those not in accordance with the form whenever the differences might raise in his judgment a reasonable doubt regarding the personality of the bidder, the price, or the obligation contracted; and in case that such a doubt existed, the bid shall not be accepted, although the bidder should declare that he is willing it should be understood as being drafted in strict conformity with the form.

10. After reading all the bids presented, the president shall provisionally award the auction to the bidder having presented the most advantageous bid amongst those that were admitted.

11. Should there be amongst the bids admitted two or more equal bids more advantageous than the rest, an oral bid shall be held amongst their authors for a period of ten minutes, at the expiration of which the

president shall declare the auction ended, after duly notifying the bidders three times, it being understood that if none should better the bid or all should do so on the same conditions, the provisional award of the auction shall be made in favor of the bidder whose bid bears the lowest number.

12. After the provisional award has been made the president shall return their *cédulas* to all the bidders, making a memorandum of the date and number of each one, and shall attach to the record of proceedings of the auction all the receipts of deposit and all the bids presented, including those he may have declared as rejected, excepting only those belonging to the bidders agreeing to have their bids rejected, which they shall be able to obtain immediately with the respective receipts of deposit, it being understood that in this manner they renounce to all right to the final award of the auction.

13. All the proceedings shall be noted by the notary or the certifying secretary in the minutes of the auction, in which there shall necessarily be stated the total number of bids presented, with the prices and names of the bidders, as well as those accepted and rejected, the reasons for their rejection, stating what bidders agreed to the declaration of rejection and taking up their bids and receipts, the protests on claims of any kind whatsoever which may have been made, and the declaration of the president relating to the provisional award. These minutes, which shall be drafted before the meeting is adjourned, shall be read aloud by the writer; the protests or claims concerning their contents made by the persons present shall be added thereto, and shall also be signed by the persons composing the committee and by the claimants who might so desire it, and shall furthermore be certified to by the writer.

14. The minutes, with all the bids presented and the receipts of deposits belonging to the same, with the statements mentioned in rule 12, shall immediately be forwarded to the contracting corporation.

ART. 17. When auctions for contracts which should bring to the interested corporation revenues, or cause expenditures not exceeding 50,000 pesetas, are held, the following rules shall be observed, unless by the nature of the contract the corporation may decide to conform to those of the foregoing article, which fact must be stated in the advertisements:

1. First rule of article 16.

2. Second rule of article 16, with the understanding that article 17 is the one which shall be read.

3. After reading the bids mentioned in the foregoing rule, the president shall declare the auction open during the period of one hour, and shall notify the persons present that during that time they may call for the explanations they may deem necessary concerning the conditions of the auction; with the understanding that after that period of time has elapsed the auction shall be declared ended, and no other bids shall be accepted or any explanation whatsoever given.

4. During the stated period of one hour the auction shall be held by the means of oral proposals and advances, on the moment, the bidders making their bids aloud in accordance with the form, the reading of which they may request when doing so. If the bids were not in accordance with the form, after the latter is read, the bids shall not be accepted; but the bidders shall have a right to protest and to have their bid, as it was formulated, literally entered in the minutes.

5. Every bidder, when making his only or first bid, shall deliver to the president in an open envelope his *cédula* and the receipt proving the deposit of the provisional guarantee required to take part in the auction; the president shall ascertain whether these documents are contained therein, and in such case, if they are correct, he shall replace them inside the envelope and shall leave it on the table within view of the public and shall declare it admitted. If said documents should not be inside the envelope or the receipt of deposit be for a lesser amount than the one required, the president shall immediately return the envelope to the bidder, unless the latter should insist on its being received, in which case it shall be closed and sealed and the interested person shall rubricate it. It shall then be attached to the record of proceedings in order that the corporation my resolve thereon when deciding on the validity or nullity of the auction, this fact causing the document to be considered as admitted nor permitting the bidder to make any bids.

6. Every bid made by the bidders whose envelopes are admitted, or have already been declared as admitted, shall be repeated aloud by the president, mentioning the name and surname of the bidder and the price or the reduction offered by him.

7. After the envelope has been admitted with the documents stated in rule 5 and the bid has been announced by the president, without any rectification or protest from the bidder, it shall be entered by the notary or the secretary certifying to the ceremony, giving it the proper correlative number by the order in which the bids were presented, and the bidder shall not be able to withdraw the same for any reason whatsoever.

8. Rule 7 of article 16, it being understood that the announcement shall be made five minutes before the expiration of the period of one hour, designated in rule 3 of the present article 17.

9. Immediately after the expiration of the period of one hour the president shall declare the auction closed and shall read aloud the list of bids admitted provisionally, awarding the auction to the author of the one which may prove most advantageous. Should there be two or more equal bids, more advantageous than the rest, the provisional award shall be made in favor of the author of the one bearing the lowest number.

10. After the provisional award is made the president shall return to all the bidders their *cédulas*, making a memorandum of the date and number of each, as well as the receipts for their deposit, to the authors

of rejected bids who may not have made use of the right granted them by rule 4 of this article, and shall attach to the proceedings of the auction the list, certified to by the secretary, of all the bids admitted and of the other receipts for deposits.

11. Rule 13 of article 16.

12. The minutes with the documents to be attached to the proceedings according to rule 10 and the sealed envelopes mentioned in rule 5, should there be any, shall be immediately forwarded to the contracting corporation.

ART. 18. If in case of a double auction the bids of the two provisional concessionaires should result equally advantageous, the corporation shall cite the latter to a new auction within a period not under ten days nor more than fifteen, stating the day and hour on which they are to appear. This auction shall be held before the contracting corporation in the manner prescribed by rule 11 of article 16, it being understood that in case only one should appear in person or be represented by an agent the one appearing shall be considered as the only provisional concessionaire; and in case both should appear and none should better his proposal, or both should do so under the same conditions, the auction shall be provisionally awarded to the author of the bid presented in the auction held before the authorities referred to in article 8.

ART. 19. Within the five days following that on which any auction was held, or the day of the open auction mentioned in the foregoing article, all the bidders whose bids were admitted, or who have not declared their conformity in having them rejected, shall present in writing before the interested corporation a statement mentioning whatever they deem proper relating to the auction, to the judicial capacity of the other bidders, and what they believe should be decided in relation to the final reward.

ART. 20. After the expiration of the period of five days mentioned in the foregoing article the interested corporation shall decide what it may deem proper on the validity or nullity of the auction without any appeal being in order against its decision; if it should declare the ceremony to be valid, it shall make at the same time the final award of the auction to the author of the bid most advantageous amongst those admitted or amongst those rejected which should have been admitted, according to the announcements and the provisions of this royal decree, and shall order that all the receipts of deposits be returned to the bidders, retaining only the one belonging to the concessionnaire.

The resolution issued relating to the definite award of the auction shall be final; but any bidder considering himself injured by the resolution may appeal within the eight days following that on which the resolution was passed, by means of a suit to the proper court asking for an indemnity for the damages incurred on account of the award having been unduly refused him.

The court shall only grant the indemnity when the final award appears to have been made in bad faith, and in this case only shall jointly sentence the provincial deputies or councilors having voted the decision of award, to indemnify the plaintiff and to pay to the corporation the difference resulting between the bid to which the auction was awarded and that of the plaintiff.

Whenever the suit is dismissed, the plaintiff shall be sentenced to pay all costs.

ART. 21. After the final award has been made, the successful bidder shall be immediately notified in order that within the period of ten days, if the auction was held in accordance with article 16, or of five days if it was held in conformity with article 17, he may present the document proving that he has increased the guarantee to the amount of the final one, and that he has complied, in a proper case, with the provisions of article 14, or may present a guarantor with the conditions required by article 12, whenever this class of guarantee is admissible; when the guarantee has been completed or the guarantor has been presented and accepted, the successful bidder shall be cited in order that on the day which may be designated he may appear to authorize the instrument or execute the contract.

ART. 22. The contracts which have to be executed by means of an auction in accordance with this royal decree shall be drawn up in a public instrument whenever the total receipts or expenditures which they may cause the contracting corporation exceed 15,000 pesetas. Those for a smaller amount, if the public instrument should not be necessary for their inscription in the registry of property or for other purposes, shall be concluded by the delivery to the successful bidder of a certificate wherein shall be inserted the documents of conditions, the minutes of the auction, and the resolution relating to the final award of the auction, which shall be compared by the successful bidder, who shall sign his receipt and his conformity in the record of proceedings of the auction.

In the cases in which a personal guarantor has been accepted, he shall be present when the instrument is executed or the contract closed, subscribing the acceptance of his obligations in the record of proceedings of the auction.

Although no public instrument be executed, the deputations and municipal councils shall see that the provisions of articles 20 and 21 of the general regulations of December 31, 1881, for the imposition, administration, and collection of the industrial tax, and other similar provisions governing contracts executed by the administration, are complied with.

ART. 23. If the successful bidder should not give the final guarantee in any of the admissible forms, or should not be present at the execution of the instrument or closing of the contract, or should not comply with the conditions necessary for the purpose within the periods designated and within an extension, which can only be granted for a

justified cause, and which in no case shall exceed five days, the contract shall be considered as rescinded to the prejudice of the said successful bidder. The effects of this declaration shall be as follows:

1. The payment of all the expenses arising from the auction.

2. A new auction shall be held under the same conditions, the first concessionaire paying the difference between the first and second auctions, in case this should be less advantageous to the interested corporation.

3. The former shall also pay all the damages resulting to the corporation by reason of the delay.

4. In case no new bidders appear and the work or service has to be executed by the administration, any damage arising by reason of this shall be for the account of the first concessionaire, such damage to be regulated and determined in proceedings in which he shall be heard.

The liabilities shall be collected, in so far as possible, from the provisional or final guarantee given by the concessionaire, which shall always be retained, and if the guarantee should not be sufficient, from the remaining property of the concessionaire, administratively and by means of judicial compulsion.

If after the liquidation of said liabilities the guarantee should exceed their amount, the excess shall be returned to him.

ART. 24. The concessionaires may cede and validly transfer the rights resulting from the auction, in so far as the transfer or cession is not prohibited by the laws or provisions governing the nature of the contract or by the conditions stated in the documents which served as a basis for the auction. In all cases it shall nevertheless be necessary that the new contractor fulfills the conditions and gives the guarantees required of the concessionaire, and that the interested corporation consents to the cession or transfer, stating it thus by means of a resolution, which shall be included in the proceedings of the auction.

ART. 25. The substitutions and cessions of the rights of the concessionaire may be made by appearing before the interested corporation up to the time of the execution of the instrument or the conclusion of the contract; afterwards, they may only be made by means of a public instrument, even though the contract between the corporation and the concessionnaire should have been closed without it.

ART. 26. In all cases the person or entity obtaining the auction shall be one, and the obligation and the rights accruing from the same shall be indivisible for the corporation, and as long as the contract remains in force no other personality shall be recognized but that of the concessionairè or his attorney in all that relates to the effects of the contract.

ART. 27. The fact of presenting or formulating a bid in the auction binds the bidder to comply with the contract if the auction is finally awarded to him; but it does not give him any more rights, even if it has been provisionally awarded to him, than those mentioned in article 20 in the case referred to in the same.

The contracting corporation is only obligated by the final award.

ART. 28. The cognizance of the questions arising between the interested corporation and the concessionaire relating to the fulfillment, understanding, rescission, and effects of contracts, nullity of the same, or indemnity for damages shall appertain to the courts of first instance of competent jurisdiction to deal with these matters in contracts executed by the general administration of the state.

Every litigious suit shall be preceded by a complaint in an administrative manner, in which the decision of the contracting corporation shall cause a stay of proceedings, with the exception of the cases expressly excepted by this royal decree.

No contract executed by the provinces or the municipal councils can be submitted to arbitration nor to any other jurisdiction but the proper one, in each case, in accordance with the laws.

ART. 29. The contracting corporation may rescind the contract at any time during the same by reason of the faults of the concessionaire or on account of the mere convenience of the corporation.

Should it be rescinded on account of mere convenience the concessionaire may administratively appeal from the decision within the period of thirty days before the immediate superior, whose decision shall be final with regard to the recision, without prejudice to the right of the concessionaire to demand from the corporation an indemnity for the damages which the recision has caused him.

If the resolution for recision was because the concessionaire had not complied with the conditions of the contract, he may impugn the resolution by means of a complaint presented within a period of thirty days before the proper court, which shall resolve on the legality of the recision, making an express declaration regarding as to whether there is or not cause for an indemnity for damages to either party, but without fixing the amount.

ART. 30. The concessionaire may only request the rescission by reason of the corporation not having complied with the stipulations in the cases in which such noncompliance may cause the same.

He may enter a complaint against the resolution of the contracting corporation in the manner established by the second paragraph of article 29, all that is prescribed therein being applicable.

ART. 31. In all cases in which the contracting corporation decides, or the concessionaire requests the rescission, it shall appertain to the former to declare whether the contract shall be suspended, or whether it shall continue in force until the question of rescission is finally decided, and its declaration shall be final, no appeal being admissible against it.

ART. 32. The fines and indemnities to which the concessionaires are liable shall be administratively collected—

1. From the sums in cash or in public bonds which they may have deposited as a guarantee.

2. From other property owned by the concessionaires.

3. From property owned by the guarantor, should there be one, up to the amounts guaranteed by him.

In the attachment and sale of the property owned by the concessionaire or by the guarantor, in order to liquidate said liabilities, suit shall be instituted by means of administrative proceedings under judicial compulsion.

When the guarantee has been given in public bonds, and the concessionaire has to lose it or to pay a sum from the same, the necessary bonds shall be sold, with the intervention of a stock broker, to cover the amount in cash for which the guarantee was given or which should be paid by the concessionaire; and the balance, if there be one, shall remain on deposit or shall be returned to the concessionaire, as it may be proper.

ART. 33. The concessionaire shall cover the full amount of the guarantee whenever a part of the same has been taken, in order to collect fines, or indemnities. Should they have been collected from property owned by the personal guarantor, the latter shall increase his obligation up to the total amount of the guarantee, or the concessionaire shall present another guarantor who shall be acceptable to the corporation.

If ten days after having been notified to cover the guarantee he has not done so, in any of the manners accepted, the contract shall be declared annulled with the consequences of article 23.

ART. 34. At the expiration of the contract, if there are no liabilities to be demanded, the guarantee shall be returned to the concessionaire and the obligation of the guarantor, if there be one, shall be declared cancelled.

ART. 35. Interest shall be paid to the concessionaire or by the latter at the rate of five per cent per annum, by reason of delay in the payments, whenever these are retarded over two months, without prejudice to what may have been agreed upon relating to the delay in the payments being a cause for the rescission of the contract.

ART. 36. An auction is not necessary:

1. For the contracts executed by the provincial deputations and the municipal councils in the capital of a province, whenever they shall cause receipts or a total expenditure not exceeding 2,000 pesetas, nor for the contracts executed by other municipal councils when the receipts or total expenditure shall not exceed 500 pesetas.

2. For contracts concerning objects the producer or seller of which owns the patent of invention or the privilege of introduction.

3. For contracts involving specified objects of which there is only one owner.

4. For contracts made as a trial.

5. For those executed after two auctions without any bidders, whenever the price and the conditions of the contract be as favorable to the

corporation as the rate and conditions which served as a basis for the auctions.

6. For those of such extraordinary urgency, arising from unforeseen circumstances, that there is no time to comply with the proceedings required for auctions.

ART. 37. In the cases of the foregoing article, the first case excepted, the declaration of exception made by the governor of the province shall precede whenever municipal contracts are in question, or should they be provincial, by the secretary of the interior, and without it the contracts executed shall be null, the councilors or provincial deputies deciding the execution of the contract or approving it shall be personally liable for any damages arising therefrom.

ART. 38. The provisions regulating auctions and contracts of the general administration of the state are applicable as suppletory to those executed by provincial deputations and by municipal councils in so far as they do not conflict with the provisions of this royal decree.

ART. 39. The provisions of this royal decree shall not be applied to contracts governed by special laws in which the procedure of an auction is required.

TEMPORARY PROVISIONS.

The contracts which at the time of the publication of this royal decree have already been executed by the deputations and municipal councils, with or without auction, shall conform to the stipulations of the same and to the provisions in force up to the present time.

The contracts pending execution without auction shall conform to this royal decree if there is no resolution granting rights to a specified person.

The advertised auctions shall conform, in so far as possible, to the provisions of this royal decree in all the proceedings subsequent to the publication of the same.

Given at the palace on the 4th of January, 1883.

ALFONSO.

VENANEIO GONZALEZ,

Secretary of the Interior.

COLONIAL DEPARTMENT.

DECREE.

As Regent of the realm, in view of the reasons presented to me by the colonial secretary, in concurrence with the council of secretaries,

I decree the following:

ARTICLE 1. The product of all the taxes, revenues, estates, rights, and all kinds of bonds belonging to the State, which supports all public charges, constitutes the public treasury in the Spanish colonial provinces.

ART. 2. The administration and collection of the credits of the treasury in said provinces, as well as the payment of all the obligations of the state, is entrusted to the colonial secretary and is under the charge of agents of the same, responsible and subject to the rendition of accounts.

ART. 3. The following are the agents entrusted with the management of the public treasury in each province:

1. The intendants or the officials entrusted with their powers;

2. The administrators of all the revenues or productive branches of the treasury;

3. The auditors of the public treasury and supervisors;

4. The treasurers and depositaries.

ART. 4. The intendants are the superior chiefs of the financial administration in their province by delegation of the colonial secretary, and for this reason they exercise exclusively the authority and the corresponding supervision over all the offices and dependencies of the public treasury in the same.

ART. 5. The intendants shall—

1. Endeavor to make the most equitable distribution of taxes and imposts.

2. Encourage by all possible means the product of the taxes and revenues of the state and suggest to the department the modifications and improvements of which they may be susceptible.

3. Order the payments and liquidate all the obligations and services of the state by themselves or by means of delegates in the central administration of the island, as well as in the provincial or local, the branches of war and navy, which have special paymasters, being excepted.

4. Communicate to the proper persons the orders directly received from the colonial department or from the superior authorities of the island, and see that they are punctually carried out.

5. Certify with their counter signature the account of public expenses which the supervisor of the disbursing department shall render, and see that at the proper times the periodical notices and the accounts which the different officials of the fiscal administration are obliged to render are forwarded to the auditing section of the colonial department, in accordance with the decree and instruction of March 7, 1855, and with the other provisions in force and those which may be issued hereafter.

ART. 6. The intendant shall be, in the hierarchical order, subordinate to the superior authority of the island; but in the exercise of his functions as chief of the fiscal administration and delegate, in all that concerns the same, of the colonial secretary, he shall exclusively depend on the latter and receive his orders directly from him.

ART. 7. The principal administrators of all the revenues and productive branches of the treasury are intrusted with the preparation, direction, and liquidation of all the operations concerning the recognition, declaration, and liquidation of the rights of the treasury, subject to the instructions, ordinances, and regulation of each branch; and therefore, relating to the financial management, they shall:

1. Cause the collections to be made at the times and periods stated by the regulations, and that their deposit into the treasury is not delayed, not only in order that the payment of the obligations may be punctually effected, but also to prevent embezzlements and malversations of funds.

2. Administer and sell, in a proper case, in accordance with the laws, the property which has been or may hereafter be declared the property of the state, as well as that attached for debt or for any other reason whilst it remains in their care.

3. See that their delegates render their respective accounts punctually, and to examine, audit, and consolidate them into the general ones, which they shall submit to the general auditing office within the periods designated for that purpose.

4. Draft and deliver to the general auditing office the accounts of the public revenues of their jurisdiction, consolidating the partial accounts of their subordinates after examining them and settling any objections that may have been made.

5. To keep the accounts necessary in their branch or branches of the administration.

6. To comply with and see that the laws, regulations, instructions, and orders in force concerning the branches of their respective administration, and those which may in the future be communicated to them by their superiors, are complied with by all the employees under their authority.

Art. 8. The general auditors of the public treasury are the general supervisors of the administration of the state, and they shall therefore:

1. Criticise all the acts of the public administration relating to the declaration of duties and collection and distribution of the funds of the state.

2. Supervise the ordering and disbursement of all payments and receipts.

3. Keep the general accounts of their respective province; and

4. Draw up the general monthly and annual accounts and forward them to the colonial department.

ART. 9. The general auditors shall exercise the inspection and supervision through direct agents residing near all the offices in charge of the different branches of the public administration and the disbursing offices.

ART. 10. The general auditors are authorized to inspect by themselves or by means of delegates all the offices and dependencies of the war and navy departments in relation to the services causing a liquidation and payment of obligations in favor of or against the state.

ART. 11. The auditors shall be jointly responsible with the administrators, disbursing officers, and chiefs of establishments for all the illegal acts committed by the latter in the liquidation and recognition of rights and obligations of the treasury and for the payments made by the disbursing officers, whenever they have permitted them without any remark in writing as to their irregularity or illegality and have not used all the efforts in their power to prevent them.

ART. 12. The general auditor shall be subordinate to the intendant by virtue of the superior authority of the latter, which he exercises as chief of the financial administration; but in the fulfillment of his duties he shall depend on the accounting section of the colonial department, from which he shall receive direct instructions whenever it deems convenient to communicate them; and he shall also apply to the same department whenever he deems it necessary to notify it of faults or abuses observed in the fulfillment of his criticising action which have not been immediately corrected.

ART. 13. In the questions which may arise with the superior authorities of the island he shall officially make the remarks he may deem proper before authorizing the act which he considers irregular; and if notwithstanding having stated all the reasons and motives which in his judgment are opposed to it, citing the provision or provisions on which they are based, he should receive a new order in writing to execute it, he shall do so on account of his subordination to his superiors and shall immediately give notice to the accounting section of the colonial department, thereby avoiding the subsidiary liability which he would otherwise be subject to, and which the authority having issued the order shall entirely assume.

ART. 14. The general auditors shall be chiefs of the supervisors of the dependencies of the other branches in their respective provinces,

including those in the bureaus of war and navy, in all that relates to the rendition of accounts and to the accounting books.

ART. 15. All the subordinate auditors and supervisors of the different branches of the administration shall relatively have the same duties, powers, and liabilities assigned to the general auditors in articles 11 and 14.

ART. 16. The auditors, as well as the supervisors of all the offices of the treasury, shall depend on the accounting section of the colonial department, from which they shall directly receive, in a proper case, the necessary orders, and shall be appointed and removed on the recommendation of the same, with sufficient cause therefor.

ART. 17. No employee of the accounting section can be transferred to any other service but the one to which he has been appointed, except with the knowledge of the accounting section of the colonial department.

ART. 18. The treasurers or cashiers are intrusted with the custody of the public funds, and they shall—

1. Collect the amounts of all the revenues and branches, causing receipts in the treasury, and sign the receipts which are to be delivered to the interested persons.

2. Make the payments by virtue of the warrants or orders issued by the disbursing officer, countersigned by the auditor.

3. See that the chiefs or cashiers in charge of the minor offices punctually render their respective accounts, and examine, audit, and consolidate them into the general one, which they shall present to the general auditing office within the periods designated for the purpose.

4. Render the general accounts of the public treasury, consolidating the partial accounts of the minor cashiers' offices after examining them and correcting any objections which may have appeared.

5. To keep an exact and well ordered account of the entrance and payment of funds.

ART. 19. The employees who for any reason whatsoever are at the same time intrusted with the duties of administrators, depositaries, and supervisors, shall fulfill the obligations assigned to each one of the offices with which they are vested.

ART. 20. The total amount of all the properties, revenues, taxes, and rights form the assets of the State; and the liabilities, all its obligations and the expenditures for its service.

ART. 21. An itemized budget by sections, chapters, and articles, shall annually be drafted for each of them; namely, by branches, services, and specifications, in which it shall always be procured that the amount of the expenditures does not exceed that of the estimated receipts.

ART. 22. The obligations included in the approved budget, and those recognized by special provisions are the only obligations that can be exacted from the state in the colonial provinces.

ART. 23. The intendants shall draft the annual budget of all the

expenditures of their respective province, and shall forward it to the colonial department accompanied with the budget of receipts or a recommendation of the means with which to cover all the obligations.

ART. 24. For this purpose and in concurrence with the superior authority, and in a necessary case requesting its assistance, they shall call on the chiefs of all the branches for the respective partial budgets of each branch with the necessary anticipation, so that those corresponding to the period which is to commence on the first of the following July may arrive in the Peninsula during the month of October of each year.

ART. 25. These projects of budgets shall conform, in relation to their nomenclature and drafting, to those approved for the previous period, and any change suggested abolishing, increasing, or modifying the services shall be made in statements or reports, separated by chapters and articles, accompanying them with the proper memorial, in which the reasons for the change shall be stated.

ART. 26. The colonial secretary shall draft, in view of these budgets and the proposed changes, the general budget of the colonial provinces, and shall present it to the Cortes in due season in order that it may be discussed and approved in the manner prescribed by art. 31 of the provisional law of administration and accounting, which was ordered to be observed in regard to the budgets of the Peninsula by a decree of the Cortes of the 25th of June last past.

ART. 27. If for any reason whatsoever the Cortes failed to authorize any year the budget law for the colonies the immediately previous law shall obtain.

ART. 28. Whenever urgent expenses of unavoidable necessity occur, which have no credit assigned to them in the budget, or having it, it is not sufficient to completely cover them, the intendant may request of the colonial secretary, with the proper formalities, the concession of an extraordinary credit if the expense is a new one, or that of a supplementary credit if an obligation included in the budget is in question, stating the causes in either case, so that, in view thereof, the most convenient decision may be reached in accordance with the laws in force.

ART. 29. If the supplementary or the extraordinary credit should be of such an urgent character, and so pressing that the approval of the superior authority could not be awaited, or, by reason of the termination of the period being at hand, there should not be sufficient time to request it, the intendant may grant them in accordance and with the conformity of the general auditor, and after a report of the board of chiefs under the liability of all those authorizing the same, immediately notifying the colonial department, forwarding the proper record of proceedings for the corresponding resolution, in accordance with the laws.

With the same formalities and always under the established liability, the intendants may decide the transfer of the balances from one sub-

ject to another, always within the same chapter, and making beforehand its final liquidation.

ART. 30. The board of chiefs mentioned in the foregoing paragraph shall be composed of the following:

The general auditor;

The principal administrators of all the branches;

The supervisors of the disbursing offices of the capital; and

The treasurer; and it shall be presided over by the intendant, the supervisor of the general disbursing office acting as secretary.

ART. 31. No payment of any kind shall be ordered unless it is included in the budget or in the supplementary or extraordinary credits granted by subsequent provisions, in accordance with the prescriptions of the foregoing articles.

ART. 32. The budgets shall remain in force during the corresponding year, at the termination of which the credits not used shall be annulled unless their continuation has been properly authorized; but they shall remain open during the six following months to end the liquidation and to execute the collections and payments not yet effected at the conclusion of the same.

ART. 33. The credits not collected and the obligations not paid when the budget is definitely closed at said period shall be included as balances in that of the following period by special chapters and with the proper distinction of services.

ART. 34. The intendants shall order each month a distribution of funds by chapters from the expense budget, opening in the offices of the public treasury the necessary credits, to meet the obligations of the ensuing month, and the payments of all the obligations of the state shall be ordered subject to the same.

ART. 35. The monthly distributions of funds shall be drawn up in view of the requests or monthly budgets which the chiefs of all the dependencies in which the expenses have to be met shall make.

ART. 36. At the same time and in the same manner an estimate of the probable receipts in each place for all the branches and specifications of the budget of receipts shall be made, and this estimate shall serve as a basis to conveniently place the necessary funds in the respective treasurers' offices.

ART. 37. No payment can be ordered unless it has been included in the approved monthly distributions of funds; and therefore the treasurers shall refuse to pay and the supervisors to countersign all warrants exceeding the amount stated in the monthly distributions, being responsible for the payments effected without this requisite.

ART. 38. Notwithstanding the general rule established in the preceding article, whenever any expense of recognized urgency or of such importance occurs, which in delaying its payment might cause serious injury to private or to interests of the state, the political or military authority of the place in which this occurs may issue a warrant against

the proper treasurer's office, giving an order in writing to the treasurer and to the supervisor, or to the officials in charge of this service, in order that such payment may be effected under the liability of said authority, all of them remaining obligated to immediately notify the intendant in order that after the approval of the respective superior authority, it may give its approval and order the necessary amount to be included in the following distribution.

ART. 39. Every payment shall be made by virtue of a warrant issued by the proper disbursing officer, and the original documents of justification shall accompany the same.

ART. 40. Nevertheless, those obligations, which on account of their character do not allow a previous justification, may be ordered to be paid in suspense; but these warrants or payments to be justified are refundable advances made by the treasury, and shall be made with the proper voucher, as soon as possible, and always within the periods in which the payment in suspense took place.

ART. 41. The administrative chiefs and officials of any class whatsoever shall be responsible for the refunding of all excesses of payments made by the public treasury, when liquidating credits or salaries or issuing documents by virtue of the duties entrusted to them, without prejudice to the penalties which may result if any liability should be proved.

ART. 42. An account shall be rendered to the proper court of all the taxes, revenues, estates, bonds, and rights, the revenues of which constitute the assets of the treasury, as well as of the distribution and investment made of the same and of the operations effected by the treasury, in the periods and in the manner prescribed by the instructions and regulations.

ART. 43. These accounts shall be divided into four classes, namely:

Public revenues,

Public charges,

Public treasury,

Budgets.

ART. 44. The employes of all the branches managing funds of the state shall render a monthly justified account to the proper accounting court, through the central office on which they depend, within the first five days of the month following that to which the account appertains.

ART. 45. Said central office shall compile the accounts of its subordinates, and after examining and comparing them with the data contained in the same, shall consolidate them in a general account of the branch in its charge and shall forward the original ones to the general auditor's office of the province, with the remarks it may deem proper, within the first fifteen days of the month following that to which the account relates.

ART. 46. The general auditor's office shall examine and audit the above-mentioned accounts; shall also make the corresponding entries

in the accounting books, and draw up, consolidating all of them in it, the general account, which he shall forward to the accounting section of the colonial department, accompanied by the original partial accounts on which it is based and by the vouchers for the same, within the forty-five days following the month to which the account relates.

ART. 47. All the accounts shall be accompanied by certified copies, which shall be forwarded with the original ones to the accounting section of said department, where they shall be filed.

ART. 48. All the officials whose duty it is to render accounts shall punctually render them within the periods designated for the purpose, under the penalty of one day's salary for each day in which they delay the compliance with such an important service, which sum shall be collected by the chief of the office where the accounts are presented with tardiness, with the understanding that unless this is done said chief shall bear all the liability for the delay which by reason of this all the other accounts that he shall render may suffer.

ART. 49. The accounting section of the colonial department is specially intrusted with the direction and centralization of the accounts of the colonial provinces, in accordance with the prescriptions of this decree; and it behooves the same to see that they are most punctually observed and to make the explanations which may be necessary for their preparation.

ART. 50. Said section shall keep the accounts by the system of double-entry bookkeeping, and the books in all the accounting offices of the islands shall be kept according to the same system.

ART. 51. All the provisions of the present decree shall be enforced from the first of July of this year; and all the acts of the financial administration shall be in accordance with the same from said date, in so far as possible, in regard to those that have taken place in previous months, and punctually, those which may be executed in the future.

ART. 52. The colonial department shall circulate an instruction with all the necessary rules and provisions, and also the forms of the books and of the documents, in order that all that has been provided for in the present decree may be easily and faithfully carried out.

Given at Madrid on the 12th of September, 1870.

FRANCISCO SERRANO.

SEGISMUNDO MORET Y PRENDERGAST,

Colonial Secretary.

THE UNIVERSITY OF MICHIGAN

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